

**GRANT COUNTY  
LAND USE HEARING EXAMINER**

<b>IN THE MATTER OF</b>	)	<b>CORRECTED FINDINGS OF</b>
	)	<b>FACT, CONCLUSIONS OF LAW,</b>
<b>P19-0382</b>	)	<b>DECISION, AND CONDITIONS</b>
<b>Tosland</b>	)	<b>OF APPROVAL</b>

THIS MATTER having come on for hearing in front of the Grant County Hearing Examiner on January 8, 2020, the Hearing Examiner having taken evidence hereby submits the following Findings of Fact, Conclusions of Law and, Decision and Conditions of Approval as follows:

**I. FINDINGS OF FACT**

1. This is a permit for a variance to the 20-foot front yard (east lot line) setback from River Drive for the construction of a garage (29'-6" X 16'). The building would encroach six (6) feet into the front yard setback maintaining a fourteen (14) foot setback.
2. The Applicant/property owner is Dale Tosland, 2920 39<sup>th</sup> Lane NW, Olympia, WA 98502. The Applicant's designated contact is Arron Gundlach, 17425 SE 293<sup>rd</sup> Pl., Kent, WA 98042.
3. The site is located in the Sunland Estates community at 778 River Drive SW, Quincy, WA 98848. The subject parcel is Lot 3, Block 11; Sunland Estates Division #2, located in a portion of the Northwest quarter of the Southeast quarter of Section 2, Township 18 North, Range 22 East, WM, Grant County, WA (Parcel #05-0531-000).
4. The zoning for the property is Shoreline Development 4.
5. The zoning for neighboring parcels is: To the north, Shoreline Development 4; to the south, Shoreline Development 4; to the east, Shoreline Development 4; to the west, Rural Remote.
6. The Comprehensive Plan designation for the subject property is Shoreline Development.
7. Pursuant to, and in compliance with, Grant County Code § 24.08, a critical areas review of the project area was conducted as part of the application process for this proposal. The subject parcel was found to be within 200 feet of the shoreline of the Columbia River. However, the subject parcel is not a waterfront property. There is a parcel in between the subject parcel and the river. The proposed garage is outside of the sixty-five (65) foot required riparian buffer and building setback line that is required in the Shoreline Residential shoreline designation.

8. A Public Notice containing information on this project was published in the Columbia Basin Herald on December 6, 2019, and was mailed to property owners within 300 feet of the subject properties, and was posted on site, where visible to the Public.
9. The following agencies and County departments provided comments:
  - 9.1 Grant County Fire Marshal responded on December 06, 2019.
  - 9.2 Grant County Building Official responded on December 19, 2019.
  - 9.3 Grant County Public Works Department responded on December 09, 2019
  - 9.4 Grant County Assessor's Office responded on December 06, 2019
  - 9.5 Grant County Health District responded on December 10, 2019
10. The following agencies were notified but did not respond:
  - 10.1 Grant County Treasurer's Office
  - 10.2 Grant County Sheriff's Office
  - 10.3 Grant County Auditor's Office
  - 10.4 Grant County Emergency Management
  - 10.5 Grant County Noxious Weed Control Board
  - 10.6 Grant County PUD
  - 10.7 Grant County Fire District #3
  - 10.8 U.S. Bureau of Reclamation
  - 10.9 Quincy Columbia Basin Irrigation District
11. **Agency Comments:** The following is a summary of comments received:
  - 11.1 **Grant County Fire Marshal:**
    - 11.1.1. No adverse comments or concerns about this project.
  - 11.2 **Grant County Health District:**
    - 11.2.1. As long as the reserve drain field area set in the drawing by septic designer is preserved with all of the appropriate setbacks, GCHD has no problem with the proposed variance.
  - 11.3 **Grant County Public Works:**
    - 11.3.1. On the proposed site plan, it would appear that the proposed dual driveways do not have enough separation distance between them per the County standard. Provide a detailed drawing showing dimensions of the driveways and the separation distance between them. An approach permit shall be obtained for County road access.
  - 11.4 **Grant County Assessor Office:**
    - 11.4.1. Parcel 05-0531-000 is a 5,769 square foot lot with a single family residence, owners are Dale and Jamie Senn Tosland, with a contract holder of E. J. Hansen; no issues.

**11.5 Grant County Building Department:**

- 11.5.1. A building permit shall be issued prior to the start of construction of the new garage. It shall be built in compliance with all applicable codes.
  - 11.5.2. Any owner or owner's authorized agent who intends to construct, enlarge, alter, repair, move, demolish or change the occupancy of a building or structure or to erect, install, enlarge, alter, repair, remove, convert or replace any gas, mechanical or plumbing system, the installation of which is regulated by International Building Code, International Residential Code, International Mechanical Code, or Uniform Plumbing Code, or to cause any such work to be performed, shall first make application to the Grant County Development Services, Building Division and obtain the required permit
- 12. The application was determined to be Technically Complete on December 3, 2019.
  - 13. This proposal was processed as a Type III Quasi-Judicial Decision, in accordance with Chapter 25.04 "Permit Application and Review Procedures" and Chapter 25.08 "Conditional Uses and Variances" of the Grant County Unified Development Code.
  - 14. This proposal was reviewed for compliance with Chapter 24.08 "Critical Areas and Cultural Resources" of Grant County Unified Development Code. No critical areas were found to be located within 300 ft. of the project site.
  - 15. The proposal is not located within an Urban Growth Area of any city.
  - 16. No public comments were received regarding this proposal.
  - 17. Grant County Code 23.12, Table 3 requires a 20' front yard setback from the property line in the Shoreline Development 4 zone.
  - 18. The proposed variance would be for this parcel and this structure only.
  - 19. Based on the above review, comments, and analysis, the Hearing Examiner believes that the proposal as requested does conform to the criteria for approval for a variance as specified in GCC § 25.08.060(b). The variance criteria are set forth below:
    - 19.1. Special conditions and circumstances exist that are peculiar to the land such that literal interpretation and application of the provisions of GCC Titles 22, 23, and 24 would deprive the applicant of the rights commonly enjoyed by other properties in the same district under the terms of GCC Titles 22, 23, and 24.
      - 19.1.1 The lot is a small lot with odd shape. It is narrower in the front and the front lot line is curved. These conditions plus location of septic and need future/backup drain field make it so that the Applicant is unable to satisfy all property line setbacks and add the garage. On the back of the property we can satisfy both the side line and back line setbacks. There are several other homes in Sunland that have received variances to the front 20 ft. setback to 14 ft.

- 19.1.2 While the lots in Sunland Estates appear similar in size, the shape of the lots makes it difficult to place accessory structures. The topography of the subject parcel and the placement of the residence and drain field constructed by a previous resident create special circumstances that leave a limited buildable area for accessory structures.
- 19.2. Allowing the variance will be in harmony with the intent and spirit of GCC Titles 22, 23, and 24.
  - 19.2.1 This variance does not change the intent and spirit of GCC titles 22, 23, 24. There are many other properties in the neighborhood with less than 20' set back to the front property line.
  - 19.2.2 Granting of the proposed variance would be in harmony with the intent and spirit of GCC Titles 22, 23, and 24. The proposed structures were placed in their current locations by previous owners of the property. Additionally, allowing the variance will not approve a use which is prohibited in the Shoreline Development 4 Zoning District.
- 19.3 A variance is necessary for the preservation and enjoyment of a property right possessed by other property in the same vicinity or district, but which is denied to the property in question because of special circumstances on that property.
  - 19.3.1 This variance is necessary for continued preservation and enjoyment of the property as the Applicant's family has grown and the added room has become necessary.
  - 19.3.2 The special circumstances of residence and drain field placement on this property limit the building area on the subject parcel. There have been variances to the front setback that have been previously approved by the Board of Adjustment (File #08-5115, #09-5275, and #15-6063) as well as by the Grant County Hearing Examiner (File # P17-0422).
- 19.4 The special conditions and circumstances described in Criteria #1 above, are specifically related to the property and are the result of unique conditions such as specifically irregular lot shape, size, or natural feature, and the application of GCC Titles 22, 23, and 24, and not, for example, from deed restrictions or the applicant's own actions.
  - 19.4.1 The unique conditions of the lot as described above are the cause of the Applicant's need for the variance. If the lot was rectangular, as many of the other lots in the area are, or was just a few feet larger there would not be a need for a variance.

- 19.4.2 The shape and size of the lot limit the buildable area of the lot. The placement of the existing residence and the drain field also limit the buildable area. The residence and drain field were built and installed by a previous owner and not by the applicants themselves.
- 19.5 The granting of the variance requested will not confer on the person seeking the variance any special privilege that is denied by this Chapter to other lands, structure, or buildings under similar circumstances.
- 19.5.1 In Sunland Estates there have been several variances approved regarding setbacks (P17-0422, 15-6063, 09-5275, 8-5115 and P19-0124). Granting of the variance requested will not confer on the persons seeking the variance any special privilege.
- 19.6 The variance requested is the minimum necessary to afford relief.
- 19.6.1 The applicant has proposed a 29'-6" by 16' foot garage to be used for personal storage. The front setback is the minimum distances necessary to afford relief.
- 19.7 The requested variance will not create significant impacts to critical areas and will not be materially detrimental to the public welfare, injurious to the right of other property owners in the vicinity, or contrary to the public interest.
- 19.7.1 No critical areas were found to be present on the parcel. The variance if approved would not be detrimental to public welfare, injurious to the right of adjacent property owners and would not be contrary to the public interest if it can be constructed as required by County Code, International Building Code and International Fire Code. The structure has not yet been reviewed for compliance with said codes.
- 19.8 The variance will not permit a use prohibited by GCC Title 23 in the district in which the subject property is located.
- 19.8.1 The variance will not allow a use prohibited in the Shoreline Development 4 zone.
20. An open record public hearing after due legal notice was held on January 8, 2020.
21. Appearing and testifying at this hearing was Arron Gundlach. Mr. Gundlach testified that he was an agent authorized to appear and speak on behalf of the property owner.
22. Mr. Gundlach testified that he had reviewed the proposed conditions of approval and had no objection to any of them.
23. Additionally, Mr. Gundlach confirmed that the installed septic system, including drainfields, constrict lot development and placement of this garage. Also, the size and configuration of the lot likewise constrains development with this proposed garage.
24. No member of the public testified at this hearing.

24. Any Finding of Fact that is more correctly a Conclusion of Law is incorporated herein as such by this reference.

## II. CONCLUSIONS OF LAW

1. The Hearing Examiner has been granted authority to render this decision.
2. Special conditions and circumstances do exist that are peculiar to the land such that literal interpretation and application of the provisions of GCC Titles 22, 23, and 24 would deprive the applicant of the rights commonly enjoyed by other properties in the same district under the terms of GCC Titles 22, 23, and 24
3. Allowing the variance will be in harmony with the intent and spirit of GCC Titles 22, 23, and 24.
4. A variance is necessary for the preservation and enjoyment of a property right possessed by other property in the same vicinity or district, but which is denied to the property in question because of special circumstances on that property.
5. The special conditions and circumstances described in subsection (1) above are specifically related to the property and are the result of unique conditions such as specifically irregular lot shape, size, or natural feature, and the application of GCC Titles 22, 23, or 24, and not, for example, from deed restrictions or the applicant's own actions.
6. The granting of the variance requested will not confer on the person seeking the variance any special privilege that is denied by this Chapter to other lands, structures, or buildings under similar circumstances.
7. The variance requested is the minimum necessary to afford relief.
8. To afford relief the requested variance will not create significant impacts to critical areas and will not be materially detrimental to the public welfare, injurious to the right of other property owners in the vicinity, or contrary to the public interest.
9. The variance will not permit a use prohibited by GCC Title 23 in the district in which the subject property is located.
10. Any Conclusion of Law that is more correctly a Finding of Fact is incorporated herein as such by this reference.

## III. DECISION

Based on the above Findings of Fact and Conclusions of Law, Permit Application P19-0382 is hereby **APPROVED** subject to the following Conditions of Approval.

#### IV. CONDITIONS OF APPROVAL

All Conditions of Approval shall apply to the applicant, and the applicant's heirs, successors in interest and assigns.

1. The landowner/applicant is responsible to determine if other permits and/or licenses will be required by other local, state, and federal agencies. The landowner/applicant shall acquire all such permits and/or licenses as required.
2. A Variance to the Development Standards as defined in GCC § 23.12 Table 3 in the Shoreline Development 4 Zoning District has been granted in order to allow only construction of a residential garage on parcel #05-0531-000 as depicted on a Site Plan submitted to the Grant County Development Services - Planning Division by the applicants on November 18, 2019. Any further development beyond the scope of this project as proposed, including changes to the development or any requests for additional construction, shall be reviewed by the Grant County Planning Department and may require other permitting.
3. The applicant shall comply with all requirements as deemed necessary by the Grant County Public Works Department, including, but not limited to:
  - 3.1 Approach permit shall be obtained for County Road access.
  - 3.2 Proponent shall provide a detailed drawing showing dimensions of the driveways and the separation distance between them that meet the minimum requirements of the Grant County Standards.
4. The applicant shall comply with all requirements as deemed necessary by the Grant County Planning Department, including, but not limited to:
  - 4.1 The development authorized by this Variance shall be completed within five (5) years of the date of permit approval or the permit shall become null and void. An extension of up to one (1) year may be granted by the Decision Maker if the permittee demonstrates good cause for an extension.
  - 4.2 This variance applies to the construction of the garage structure depicted in the site plan and allows for a fourteen foot (14') front setback. No other construction is authorized.

Dated this 23 day of January, 2020.

GRANT COUNTY HEARING EXAMINER

  
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Andrew L. Kottkamp

**EXCEPT AS PROVIDED BY GRANT COUNTY UNIFORM DEVELOPMENT CODE, SECTION 25.32.150, THE DECISION OF THE HEARING EXAMINER IS FINAL AND CONCLUSIVE UNLESS APPEALED TO THE GRANT COUNTY SUPERIOR COURT WITHIN TWENTY-ONE (21) DAYS AFTER THE ISSUANCE OF THIS DECISION AS PROVIDED BY RCW 36.70C.040 AND GRANT COUNTY UNIFORM DEVELOPMENT CODE, SECTIONS 25.32.160 AND 25.04.430.**